



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

LARRIANTE SUMBRY,	§	
	§	
Petitioner,	§	
	§	
vs.	§	CIVIL ACTION NO. 4:05-2779-HFF-TER
	§	
CECIL DAVIS,	§	
	§	
Respondent.	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE AND DISMISSING PETITION

This is a *habeas corpus* petition filed pursuant to 28 U.S.C. § 2254. Petitioner is proceeding *pro se*. The matter is before the Court for review of the report and recommendation (Report) of the United States Magistrate Judge in which he recommends that the Court dismiss the petition due to lack of jurisdiction over Respondent. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or may recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed his Report on September 30, 2005, and Petitioner filed objections on October 24, 2005. Petitioner's objections appear to attack the Magistrate Judge's failure to consider Petitioner's allegations of violations of his human rights, but they utterly fail to address the jurisdictional issues discussed in the Magistrate's Report.

Specific objections are necessary to focus the Court's attention on disputed issues. *See Thomas v. Arn*, 474 U.S. 140, 147-48 (1985). Because general objections to a Magistrate Judge's report do not direct the Court's attention to any specific portion of the report, they are tantamount to a failure to object. *Howard v. Secretary of Health & Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991); *see also Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (failure to file specific objections to particular conclusions in magistrate judge's report, after warning of consequences of failure to object, waives further review). In this petition, therefore, the Court is justified in adopting the Magistrate's report without further review of Petitioner's claims. Nevertheless, the Court has, in an abundance of caution, reviewed, *de novo*, the record in this petition. The Court finds that the Magistrate Judge was correct in concluding that the Court lacks jurisdiction over Respondent.

Accordingly, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that this petition be **DISMISSED** *without prejudice* and without issuance and service of process.

IT IS SO ORDERED.

Signed this 24th day of October, 2005, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this Order within **thirty (30)** days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.